

party as accessory and not generally as a principal.

A principal in the first degree is one who was the actor or actual perpetrator of the fact. And, in a case of this kind, where the death seems to have been inflicted by personal violence, shooting or stabbing, or the like, a principal in the first degree would naturally be one who was present at the shooting and who actually committed the shooting or the stabbing, as the case may be.

Principals in the second degree are those who are present aiding and abetting at the commission of the fact. To constitute principals in the second degree, there must be, first, a participation in the act committed; and, in the second place, presence either actual or constructive at the time of its commission; but although one be present while a felony is committed, if he take no part in it and do not act in concert with those who commit it, he will not be a principal in the second degree merely because he did not endeavor to prevent the felony or apprehend the felon. Something must be shown in the conduct of the bystander which evinces a design to encourage, incite, approve of, or in some manner afford aid or consent to the act. It is not necessary, however, to prove that the party actually aided in the commission of the offense; if he watched for his companions in order to prevent surprise, or remained at a convenient distance in order to favor their escape, if necessary, or was in such a situation as to be able to come readily to their assistance, the knowledge of which was calculated to give additional confidence to his companions, in contemplation of law he was present aiding and abetting.

The statutory indictment in this State is applicable either 3